

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID A. DOWS ,	:	CIVIL ACTION
Plaintiff	:	
	:	
v.	:	NO. 04-341 Erie
	:	
KATHERINE E. HOLTZINGER	:	Judge McLaughlin
CONNER, ESQ., Chairman	:	
PENNSYLVANIA CIVIL SERVICE	:	
COMMISSION and JOHN DOE ,	:	
Defendants	:	JURY TRIAL DEMANDED

Part eight, Deposition of Patrice Berchtold, pages one through forty eight inclusive

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3

4 DAVID A. DOWS,)
)
5 Plaintiff,)
) Civil Action
6 vs.) No. 2004-3412
) ERIE
7 KATHERINE E. HOLTZINGER CONNER,)
 ESQ. Chairman PENNSYLVANIA CIVIL)
8 SERVICE COMMISSION and JOHN DOE,)
)
9 Defendant.)

10

11 Deposition of PATRICE BERCHTOLD

12 Friday, February 24, 2006

13 - - -

14 The deposition of PATRICE BERCHTOLD, called as a
15 witness by the plaintiff, pursuant to notice and the
16 Federal Rules of Civil Procedure pertaining to the
17 taking of depositions, taken before me, the
18 undersigned, Eugene C. Forcier, Stenographer
 Commissioner in and for the Commonwealth of
 Pennsylvania, at the offices of the Office of Children
 and Youth of the County of Erie, 154 East Ninth
 Street, Erie, Pennsylvania 16501, commencing at 1:18
 o'clock A.m., the day and date above set forth.

20

21 COMPUTER-AIDED TRANSCRIPTION BY
 MORSE, GANTVERG & HODGE, INC.
22 ERIE, PENNSYLVANIA
 814-833-1799

	2000	2001	2002
1. <i>Chlamydia trachomatis</i>	100	100	100
2. <i>Neisseria meningitidis</i>	100	100	100
3. <i>Streptococcus pneumoniae</i>	100	100	100
4. <i>Haemophilus influenzae</i>	100	100	100
5. <i>Legionella pneumophila</i>	100	100	100
6. <i>Yersinia enterocolitica</i>	100	100	100
7. <i>Salmonella enteritidis</i>	100	100	100
8. <i>Escherichia coli</i>	100	100	100
9. <i>Shigella flexneri</i>	100	100	100
10. <i>Staphylococcus aureus</i>	100	100	100
11. <i>Pseudomonas aeruginosa</i>	100	100	100
12. <i>Acinetobacter baumannii</i>	100	100	100
13. <i>Klebsiella pneumoniae</i>	100	100	100
14. <i>Moraxella catarrhalis</i>	100	100	100
15. <i>Streptococcus pyogenes</i>	100	100	100
16. <i>Streptococcus pneumoniae</i>	100	100	100
17. <i>Streptococcus pneumoniae</i>	100	100	100
18. <i>Streptococcus pneumoniae</i>	100	100	100
19. <i>Streptococcus pneumoniae</i>	100	100	100
20. <i>Streptococcus pneumoniae</i>	100	100	100
21. <i>Streptococcus pneumoniae</i>	100	100	100
22. <i>Streptococcus pneumoniae</i>	100	100	100
23. <i>Streptococcus pneumoniae</i>	100	100	100
24. <i>Streptococcus pneumoniae</i>	100	100	100
25. <i>Streptococcus pneumoniae</i>	100	100	100
26. <i>Streptococcus pneumoniae</i>	100	100	100
27. <i>Streptococcus pneumoniae</i>	100	100	100
28. <i>Streptococcus pneumoniae</i>	100	100	100
29. <i>Streptococcus pneumoniae</i>	100	100	100
30. <i>Streptococcus pneumoniae</i>	100	100	100
31. <i>Streptococcus pneumoniae</i>	100	100	100
32. <i>Streptococcus pneumoniae</i>	100	100	100
33. <i>Streptococcus pneumoniae</i>	100	100	100
34. <i>Streptococcus pneumoniae</i>	100	100	100
35. <i>Streptococcus pneumoniae</i>	100	100	100
36. <i>Streptococcus pneumoniae</i>	100	100	100
37. <i>Streptococcus pneumoniae</i>	100	100	100
38. <i>Streptococcus pneumoniae</i>	100	100	100
39. <i>Streptococcus pneumoniae</i>	100	100	100
40. <i>Streptococcus pneumoniae</i>	100	100	100
41. <i>Streptococcus pneumoniae</i>	100	100	100
42. <i>Streptococcus pneumoniae</i>	100	100	100
43. <i>Streptococcus pneumoniae</i>	100	100	100
44. <i>Streptococcus pneumoniae</i>	100	100	100
45. <i>Streptococcus pneumoniae</i>	100	100	100
46. <i>Streptococcus pneumoniae</i>	100	100	100
47. <i>Streptococcus pneumoniae</i>	100	100	100
48. <i>Streptococcus pneumoniae</i>	100	100	100
49. <i>Streptococcus pneumoniae</i>	100	100	100
50. <i>Streptococcus pneumoniae</i>	100	100	100
51. <i>Streptococcus pneumoniae</i>	100	100	100
52. <i>Streptococcus pneumoniae</i>	100	100	100
53. <i>Streptococcus pneumoniae</i>	100	100	100
54. <i>Streptococcus pneumoniae</i>	100	100	100
55. <i>Streptococcus pneumoniae</i>	100	100	100
56. <i>Streptococcus pneumoniae</i>	100	100	100
57. <i>Streptococcus pneumoniae</i>	100	100	100
58. <i>Streptococcus pneumoniae</i>	100	100	100
59. <i>Streptococcus pneumoniae</i>	100	100	100
60. <i>Streptococcus pneumoniae</i>	100	100	100
61. <i>Streptococcus pneumoniae</i>	100	100	100
62. <i>Streptococcus pneumoniae</i>	100	100	100
63. <i>Streptococcus pneumoniae</i>	100	100	100
64. <i>Streptococcus pneumoniae</i>	100	100	100
65. <i>Streptococcus pneumoniae</i>	100	100	100
66. <i>Streptococcus pneumoniae</i>	100	100	100
67. <i>Streptococcus pneumoniae</i>	100	100	100
68. <i>Streptococcus pneumoniae</i>	100	100	100
69. <i>Streptococcus pneumoniae</i>	100	100	100
70. <i>Streptococcus pneumoniae</i>	100	100	100
71. <i>Streptococcus pneumoniae</i>	100	100	100
72. <i>Streptococcus pneumoniae</i>	100	100	100
73. <i>Streptococcus pneumoniae</i>	100	100	100
74. <i>Streptococcus pneumoniae</i>	100	100	100
75. <i>Streptococcus pneumoniae</i>	100	100	100

24

25

ORIGINAL

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 William Taggert, Esquire
4 1400 Renaissance Centre
5 1001 State Street
6 Erie, Pennsylvania 16501

7 On behalf of the Defendant:

8 Linda S. Lloyd, Senior Deputy Attorney
9 General
10 Office of the Attorney General
11 Litigation Section
12 Strawberry Square
13 Harrisburg, Pennsylvania 17120

14 On behalf of the deponent:

15 Matthew McLaughlin, Assistant County
16 Solicitor
17 Room 114 Erie County Courthouse
18 140 West Sixth Street
19 Erie, Pennsylvania 16501

20 - - -

21 ALSO PRESENT:

22 David A. Dows

23 - - -

24 EXAMINATION BY: Mr. Taggert - Page 3, 46
25 Ms. Lloyd - Page 41

26 - - -

27

28

29

30

31

1 PATRICE BERCHTOLD

2 called as a witness by the plaintiff, having been
3 first duly sworn, as hereinafter certified, was
4 deposed and said as follows:

5 EXAMINATION

6 BY MR. TAGGERT:

7 Q Well, ma'am, you were here through the
8 earlier testimony today; is that right?

9 A Yes.

10 MR. TAGGERT: And we are continuing with
11 the same stipulations we had at the beginning of
12 the prior deponent's testimony.

13 Q I want to remind you, that if you don't
14 understand the question, do not answer it.

15 A Okay.

16 Q But instead, talk to me about what the
17 confusion is, until we reach an understanding where
18 you feel confident that you understand the question.

19 Okay?

20 A Okay.

21 Q And if you need a break, just let us know.

22 A Okay.

23 Q And this involves a case that is not
24 against your agency, it is not against you, and it has
25 to do with the state Civil Service Commission, but

1 there are certain facts that may be in your
2 possession, and that of the agency, that may be
3 relevant to that case, and that's why we are talking
4 about these matters today.

5 First real basics, what is the proper
6 pronunciation for me to use of your name?

7 A Patrice Berchtold.

8 Q Berchtold. Thank you.

9 I will try to get it right, as we go.

10 And, what is your current position with the
11 agency?

12 A My civil service title is human resource
13 analyst.

14 Q And in fact, are most of your duties human
15 resource duties?

16 A Yes.

17 Q And how long have you been working in human
18 resource activities, at OCY?

19 A I believe since November of '99.

20 Q Before that, were you with the agency?

21 A Yes.

22 Q What did you do then?

23 A Administrative assistant.

24 Q To whom?

25 A Paul Concella.

1 Q And in that role, did you have some human
2 resources activities, that you carried out?

3 A Very little.

4 There was a human resource analyst.

5 Q And currently, who is your boss?

6 A Gary Lucht.

7 Q So you report directly to the head of the
8 agency?

9 A Correct.

10 Q I am going to ask you to turn back to the
11 calendar year 2004, and there came a time when OCY
12 asked the Civil Service Commission to remove Mr. Dows
13 from the civil service list, for caseworker.

14 Do you recall that that happened?

15 MR. McLAUGHLIN: Other than continuing to
16 interrupt you, I will just place the continuing
17 objection, the same objection that I placed
18 regarding the questions, with regard to the last
19 deponent, into this area of inquiry, for the
20 reasons I stated previously.

21 MR. TAGGERT: Thank you.

22 BY MR. TAGGERT:

23 Q Are you aware of which person or persons at
24 the Civil Service Commission were contacted, or on
25 their own contacted OCY, about removing Mr. Dows?

1 A Yes, I know Steve Shartle was contacted.

2 Q And who initiated the contact with
3 Mr. Steve Shartle?

4 A I don't remember if it was myself, or if
5 our executive director also contacted him.

6 There was contact was to be made on
7 inquiring how to go about removing someone from a
8 list.

9 Q Who was then the executive director?

10 A Deborah Leibel.

11 Q Did you eventually receive information, no
12 matter how it was originally requested, about how to
13 request to try to remove someone from the civil
14 service list?

15 A yes.

16 Q And from whom did that information come?

17 A I believe it was Mr. Shartle.

18 Q And was the information provided in
19 writing, a phone call, or some other way?

20 A I know there was a phone call. I don't
21 remember if there was any additional means of
22 providing that information.

23 Q Were you a party to the phone call?

24 A I had a conversation with Mr. Shartle, yes.

25 Q But it was a separate telephone

1 conversation, than the first one you mentioned?

2 A Yes.

3 Q Okay.

4 Was the first -- with whom was the first
5 call, Mr. Shartle and who else?

6 A Say that again.

7 Q Now, there was someone, other than you,
8 that had occasion to speak with Mr. Shartle; is that
9 right?

10 A I believe our executive director also may
11 have had a conversation with him, yes.

12 Q Were you a party to that first phone call
13 with the executive director?

14 A No.

15 Q Okay. Then there was a second phone call,
16 that was you and Mr. Shartle talking?

17 A Correct.

18 Q Is that right?

19 And would you tell us the substance of that
20 conversation, who said what?

21 A I believe I inquired about how we would go
22 about removing someone from a list, and he explained
23 the process of documentation that we needed to send to
24 the person that we wanted to have removed, the
25 documentation that we needed to send into civil

1 service, and I don't remember if we discussed anything
2 else at the time.

3 Q Had you personally initiated looking into
4 how to remove someone, or had some other employee of
5 OCY begun that inquiry?

6 A I don't remember.

7 Q What was the motivation to look into how to
8 remove someone from the list, from the civil service
9 list?

10 A Motivation was, that we wanted to have
11 someone removed from the list.

12 Q And who was that someone?

13 A Mr. Dows.

14 Q Who had concluded that Mr. Dows should be
15 removed from the list; who at OCY had reached that
16 conclusion?

17 A I believe administrators, and I would have
18 gotten my direction from our executive director.

19 Q So had you independently, for yourself,
20 concluded that Mr. Dows should be removed from the
21 civil service list, or were you implementing the
22 decision of other people with whom you worked?

23 A I was implementing the decision of other
24 people. I don't have that deciding power.

25 Q And what steps did you take, toward the

1 possible removal of Mr. Dows from the civil service
2 list? What did you actually do?

3 You had the phone call.

4 A Correct.

5 Q That you told us about.

6 And after the phone call, did you take any
7 steps to actually further the removal of Mr. Dows from
8 the list?

9 A At some point we did. I don't remember how
10 far from the telephone call, to the actual proceeding
11 with removing, how long that was.

12 Q And though you don't recall the amount of
13 time that elapsed, what activity did you actually
14 carry on?

15 A I know we had to -- the administrators had
16 to gather the information. There is a form, I
17 believe, from civil service, that we have to complete,
18 with the reasons on it.

19 That was developed, and I believe sent to
20 the Civil Service Commission, and at the same time
21 sent to Mr. Dows.

22 Q What was your next dealing -- are you the
23 person who actually mailed out the materials you just
24 discussed?

25 A Yes.

1 Q And what was your next involvement, with
2 the matter of removing, trying to remove Mr. Dows?

3 A What do you mean by our next --

4 Q Did you receive word back from the Civil
5 Service Commission; did they ask you to do more; did
6 you go have to make other contacts; what else did you
7 do?

8 A I know at the time they instructed us that
9 we can continue with our normal hiring process, until
10 it was determined on whether Mr. Dows would be removed
11 or not from the list.

12 Mr. Dows had an opportunity to respond to
13 the reasons why we were asking his name to be removed,
14 and then I believe we were able to respond to his
15 comments to the Civil Service Commission.

16 Q Was it your understanding, that while there
17 was a request to remove Mr. Dows pending, that he did
18 not have to be offered a job?

19 A Yes.

20 Q And in turn, the way events played out, at
21 that time, were there other people you were able to
22 offer jobs to, instead of Mr. Dows?

23 A Yes.

24 Q And do you recall who those people are?

25 A No, I don't.

1 Q But you have records you could consult,
2 that would tell you that?

3 A Correct.

4 Q And would it refresh your memory, that the
5 people who were hired during that period, for
6 caseworker with OCY Erie, were women?

7 A Oh, I don't -- I mean, I don't know without
8 looking back at our hiring list.

9 Q Was Mr. Dows ever actually removed from the
10 civil service list?

11 A No, he was not.

12 Q And that was based on a decision of the
13 Civil Service Commission?

14 A Yes.

15 Q In 2004, what was Mr. Peter Callan's job?

16 A He is the county personnel director.

17 Q And would it be correct that Mr. Callan, to
18 some extent, became involved in the request to remove
19 Mr. Dows?

20 A I believe his signature is required on the
21 paperwork, along with our executive director.

22 Q Would it refresh your memory, that while
23 Mr. Dows was suspended from being on the list, because
24 of the request that he be removed, that
25 Camille Carideo was hired?

1 A Without looking at my list, I don't
2 remember when she was hired.

3 Q And same question as to Miss Linda Bell?

4 A The same thing, I would have to check the
5 dates, and I don't remember what years they were
6 hired.

7 Q The best information available to us,
8 through the course of this case, is it was February 2,
9 2004, when the written request was made to remove
10 Mr. Dows from the civil service list.

11 Does that sound about right to you?

12 A Yes.

13 Q Similarly, in discovery, it seems that the
14 hire date for Camille Carideo and Linda Bell was
15 April 19th, 2004.

16 It also seems that on April 26th, 2004,
17 Christina Kirkpatrick was hired.

18 On May 23, 2004, based on discovery
19 materials, Angela Lawton was hired.

20 And on May 10th, 2004, Nicole Johnson was
21 hired.

22 And on May 17th, 2004, Julia Howser was
23 hired.

24 Are the names of those people familiar to
25 you, even though the details may not be?

1 A Yes.

2 Q On May 20th, 2004, Deborah Liebel, as
3 interim executive director of OCY, offered Mr. Dows a
4 position, as in civil service appointment.

5 Does that refresh your memory, that he was
6 in fact offered a county caseworker 2 position?

7 A In what year?

8 Q May 2004?

9 A Correct.

10 Q Okay.

11 So if the information I gave you is correct
12 about the hiring dates of those other people, they
13 were hired during the period Mr. Dows could not be
14 hired, but as the request to remove him was pending;
15 is that right?

16 A Correct. Yes.

17 Q Who, if anyone, at the Civil Service
18 Commission, informed you that Mr. Dows would not be
19 hireable until the effort to remove him was decided?

20 A I believe that information came from
21 Steve Shartle.

22 Q Now, you stated earlier that you had been
23 in personnel work for about eight o ten years?

24 A Since I believe it was '99, November '99.

25 Q So longer.

1 And, that '99 start date, is that here at
2 OCY, or was your personnel work at some other
3 location?

4 A No, that was all here at OCY.

5 Q What familiarity do you have with the
6 intern program?

7 A I have some knowledge of it, because I am
8 the one that does the paperwork, through civil
9 service, and accounting, for all of our hires.

10 Q Even the interns?

11 A Correct.

12 Q Is it correct that the great majority of
13 the intern hires come from Mercyhurst, Gannon or
14 Edinboro?

15 A Correct.

16 Q When, as part of your professional duties,
17 as you say, doing the paperwork -- do you do the
18 actual paper work that moves the interns onto the
19 payroll?

20 A Yes.

21 Q It actually causes all of the right forms
22 to be filled out, in the payroll system?

23 A Yes.

24 Q When does that occur in the time of an
25 intern; at the end of the internship, when he or she

1 may be accepted as a caseworker 2?

2 A It depends on what type of intern we are
3 talking about.

4 The CWEB students, because they are not
5 paid by the county, are not considered county
6 employees.

7 You can't be an employee, if you are not
8 getting paid.

9 Q Right.

10 A If it would happen to be a Mercyhurst, or a
11 Gannon intern, they then are placed on the payroll at
12 the date of their hire of internship.

13 Q The CWEB program is only available to,
14 where, Behrend, or for Edinboro?

15 A It is a State College.

16 Q Only?

17 A Only.

18 Q Program.

19 So these private schools, Mercyhurst and
20 Gannon, don't have the benefit of that program?

21 A Correct.

22 Q But your agency is able to have funding to
23 pay for the interns, or do the colleges, Mercyhurst,
24 and Gannon find that money somewhere?

25 A No, it would be paid by the county.

1 Q And that's on the hourly basis, that you
2 may have heard discussed in earlier testimony today?

3 A Yes, hourly basis.

4 Q About \$9 an hour?

5 A Yes.

6 Q Approximately?

7 A Yeah.

8 Q And would it be correct, the interns don't
9 receive any fringe benefits of any kind?

10 A Correct.

11 Q They don't have health coverage, or
12 anything like that?

13 A No benefits at all, no holidays.

14 Q Now, of the various funding sources that
15 pour in -- well, dribble in to OCY, where does the
16 money come from, to pay the interns that -- the
17 Mercyhurst and the Gannon interns?

18 A It's part of our budget of state, federal
19 and local money.

20 Q Do you know which part, or funding stream,
21 brings the money for them, the Gannon and Mercyhurst
22 students?

23 A No, I don't.

24 Q And, are you familiar with the alphabet
25 soup of sources of money, 4D, and 4E, and all of those

1 sources?

2 A I have heard the names, 4E, Title 20.

3 Q Right.

4 A I don't know much detail about them.

5 Q But you can't associate any one of those

6 with the money that makes it to the Mercyhurst or

7 Gannon intern?

8 A No.

9 Q Well, neither can I.

10 Now, you have occasion to see the paperwork

11 for all of the interns at OCY?

12 A Yes.

13 Q And you get to actually meet most of them?

14 A Yes.

15 Q Face to face, at some point, for some

16 reason?

17 A yes.

18 Q Are most of them involved in the program as

19 juniors and seniors, at these colleges? They are

20 either in their junior or senior years, at the

21 colleges that we have been talking about?

22 A The interns, that we hire?

23 Q Your OCY interns?

24 A They have all been in their senior year.

25 Q So it's pretty much, just in case there is

1 an exception, there is always a wild card, but in your
2 experience, the great majority of the time they are
3 seniors?

4 A Yes.

5 Q And are most of the students able to
6 arrange things, so that their internship is ending at
7 the end of their senior school year?

8 A Yes. Most of them.

9 Q So, they are pretty much finishing about
10 the time they graduate?

11 A Correct.

12 Q In your experience, what percentage of the
13 people that participate as interns, choose to actually
14 seek permanent employment with OCY?

15 A I would say probably 75 percent.

16 Q And of the 75 percent, what percentage of
17 them actually are hired, brought on board?

18 A That same percentage.

19 Q So, there seems to be, usually, enough
20 slots for the trainees to obtain caseworker 2 jobs, if
21 they have performed adequately as trainees?

22 A Correct.

23 Q And do you hear about it in your job, if
24 trainees don't work out, and they have to be asked to
25 leave?

1 A yes.

2 Q What's the wash-out rate like? How do the
3 trainees do? Most of them stay, and then only quit
4 voluntarily after they have worked some normal work
5 span?

6 A The majority of them.

7 However, we have had several that have not
8 made the grade, and have not been even asked to finish
9 their internship.

10 Q So, some -- I keep starting to call them
11 kids, because I am so old now, but some students don't
12 make it through the internship process?

13 A Correct.

14 Q And then, some are brought on as
15 caseworker 2's, but then they are not a fit for the
16 job, or vice-versa, and they leave after a fairly
17 short period of time?

18 A And we have also had -- that's correct,
19 although we have also had interns that are not from
20 this area, have wanted to move back to their home,
21 like the Pittsburgh area, and so they have transferred
22 to other child welfare agencies, after their
23 graduation.

24 Q So really, their reasons were more
25 personal, things that set their life better, by

1 working in the same sort of job, but somewhere else?

2 A Correct.

3 Q And we have heard testimony today that
4 individuals, who have performed successfully as
5 interns, then get to start as caseworker 2's?

6 A Correct.

7 Q Rather than 1's.

8 A Right.

9 Q How much more do caseworker 2's make, than
10 caseworker 1's?

11 A Probably 4.2 percent.

12 Q So it's a tad of difference.

13 But they don't pick up -- their start date
14 isn't until they are on the county payroll, for --
15 their service date, for computing seniority, and
16 things like that, is when they become a caseworker 2?

17 A Right. The date that they are promoted,
18 through civil service, and then promoted at the same
19 level, through the county, is the start of their
20 seniority date.

21 Q Does the county, whether the personnel
22 component, or the rest of OCY, play any part in how
23 Civil Service Commission ranks the intern list? Or is
24 that completely done by civil service, and OCY has no
25 participation in that at all?

1 A That's completely done by civil service.

2 Q Now, do you, on your own authority, at
3 times ask for the competitive exam civil service list,
4 or do you only do that when someone else at OCY asks
5 you to request it?

6 A It's usually a joint process.

7 If we know we are going to be having
8 openings, I may send for a list; it was within
9 discussion with other administrators, or the executive
10 director.

11 Q What are the main factors that cause you,
12 individually, to either decide, or offer an opinion,
13 you know, if it's a group decision, that the civil
14 service merit list, for a caseworker, should be
15 requested?

16 What circumstances cause you to ask?

17 A Well, it could be we have openings, there
18 are no interns to consider. You know, we only have
19 interns that graduate either in December or
20 May. Those are the only times, after graduation, that
21 they can be considered for openings.

22 So it's August, we have caseworker
23 openings, it's almost an automatic that we are going
24 to send for a civil service list.

25 Q So --

1 A Unless we have gotten an inquiry from
2 another agency, of someone wanting to transfer.

3 I mean, there is many circumstances of
4 bringing in legal hires.

5 Q Now, as to the, what I will call the
6 timing, t-i-m-i-n-g, of hiring, you basically have two
7 crops each year of interns, in terms of time of year,
8 when they are available?

9 A Correct. Yes.

10 Q And if slots are open, and it's financially
11 possible to fill them, you and your co-workers may at
12 times decide that rather than wait until interns are
13 available, you will try to hire off of a civil service
14 merit list, that you request?

15 A Oh, absolutely.

16 Q Is that right? Okay.

17 You also say that there are mechanisms for
18 accepting transfers, they are almost like lateral
19 moves, from other counties; is that right?

20 A Correct.

21 Q Would these be people who are county
22 caseworkers 1 or 2, but in other counties?

23 A Correct.

24 Q And then for whatever reason, have a desire
25 to move to OCY area?

1 A Yes.

2 Q Okay.

3 Do any other circumstances come to mind,
4 other than the timing one, that cause you to request a
5 civil service merit list for caseworkers?

6 A Say that again, I am not sure I understand.

7 Q Sure.

8 You explained to us a few minutes ago, that
9 one of the reasons to ask for a civil service merit
10 list, is that one or more jobs are open, and it's just
11 too long until interns will be available to fill them.

12 Do you recall that?

13 A Yes.

14 Q What other circumstances arise, that cause
15 you, and your co-workers, to request merit lists for
16 caseworkers?

17 A Openings.

18 I mean, that's --

19 Q So, the timing of openings?

20 A Yeah, we have to have available -- we have
21 to have openings, or anticipated openings, to send for
22 a list.

23 Q And it would be mostly anticipated openings
24 that are not occurring close to the time when the
25 interns would be graduating from college?

1 A Correct.

2 Q Because you find that you are able to fill
3 most slots with interns, if the slots are near the
4 time when the students are graduating; is that right?

5 A Sometimes.

6 I mean --

7 Q Do you have a rough idea of what percentage
8 of your caseworkers come off the merit list, and what
9 percentage comes off the intern list?

10 A No, I really don't.

11 I would say the majority come off the
12 caseworker list.

13 We have hired probably more people off the
14 caseworker list, than we have interns, at least in the
15 last two years.

16 There is not enough interns to fill all of
17 the vacancies that we have had in the last couple of
18 years.

19 Q Now, people who have completely similar
20 programs, similar intern programs, in other counties
21 in the state, are also able to come in under the
22 intern program; is that right?

23 Let's use an example. Someone has gone to
24 the social work program at Shippensburg State,
25 completed it, been in an intern program down in that

1 county, did fine, that person can be brought in as a
2 caseworker 2 in Erie if that person wants to work
3 here; is that right?

4 A Correct.

5 Q But even with transfers from other
6 geographic areas, sometimes you just don't have as
7 many people as you have slots?

8 A Correct.

9 Q Have you, as a human resources specialist,
10 done any studies, and I don't mean that in any real
11 fancy way, but just looked at your own figures, how
12 long do people remain as caseworkers, as an average,
13 caseworkers 1 and 2, with OCY? What's an average
14 life-span?

15 A I don't have any statistics. We either
16 have people who have more than 15 years, or very new
17 people.

18 I don't have the statistics, though.

19 Q So it's not a nice bell shaped curve, it
20 tends to be lots of new people, and then not a lot of
21 mid range people, and then people who have very long
22 careers?

23 A It depends on the year. The last two
24 years, I would say, we have a lot of new staff.

25 Q Do you attribute the differences in the

1 last two years, to any different factors?

2 A I -- yes, a lot of negative publicity in
3 the press, and circumstances that have happened, and
4 we have had a lot of additional positions added to the
5 agency, also.

6 Q Was that additional funding, that became
7 available to the agency in the last year or two,
8 increases, or new funding sources?

9 A I don't know.

10 Q In these last two years, have a number of
11 caseworkers, an unusually large percentage of
12 caseworkers, been taking early retirements?

13 A Early retirements, no.

14 The county offered, I believe it was more
15 than two years ago, an early retirement, and that was
16 more people with more seniority took that, more
17 supervisors, or administrators, than caseworkers.

18 Q Was that kind of a closed period program?

19 A Yes.

20 Q Sometimes called the golden parachute?

21 A Yes.

22 Q And a number of people availed members of
23 that; is that right?

24 A Correct.

25 Q But they were disproportionately

1 administrators?

2 A I believe so, compared to caseworkers,
3 yes. We didn't have that many caseworkers retire at
4 that time. One or two, maybe.

5 Q Do you know if Debbie Liebel, aside from
6 communications you were a part of, had contacts with
7 Mr. Shartle, regarding removing Mr. Dows from the
8 civil service list?

9 A I don't know.

10 Q She never said anything to you, indicating
11 that she had to have independent discussions about
12 removing Mr. Shartle -- removing Mr. Dows, rather?

13 A I don't remember if she did.

14 Q Did you ever discuss the removal of persons
15 from the civil service list, with Civil Service
16 Commission employee Marie Thau, T-h-a-u?

17 A I may have.

18 She would have answered the phone, if you
19 would call. There is one number for both of them, so
20 I may have; I don't recall, if I did specifically or
21 not.

22 Q Did you ever discuss the topic of removing
23 people from the Civil Service Commission list, with
24 Karlos DelToro?

25 A No.

1 Q Are you familiar with that name?

2 A No.

3 Q Did you used to have contact with a civil
4 service employee named Benito Martinez?

5 A No. I don't believe so.

6 Q In your job, over the past, say, four
7 years, have you done any outreach work, where you go
8 to colleges or universities to talk about the
9 availability of positions with OCY, or to encourage
10 people to be in the intern program?

11 A I do job fairs. We are not specifically
12 looking for interns, we are looking for permanent
13 caseworkers, to take the civil service test for
14 caseworker 2.

15 Q And are these college job fairs, or just
16 those directed to the general public?

17 A Both.

18 Q And, when you are suggesting to people that
19 they might apply for the civil service exam to be a
20 caseworker, do you have materials with you, that you
21 provide to them?

22 A Yes.

23 Q And what sort of materials are they?

24 A We have materials explaining the mission of
25 the agency, and what we do.

1 I give them information on the on-line
2 testing, or I have paper applications for the civil
3 service test with me also.

4 Q So you have both your own written
5 materials, and various materials the Civil Service
6 Commission provides to you?

7 A Correct.

8 Q And, do you have any feedback as to how
9 many of the people you talk to, about taking the
10 caseworker tests, actually go ahead and do it?

11 A Other than remembering the names, and
12 seeing them on the list, I don't have any formal
13 statistics.

14 Q Have you ever been aware of any particular
15 contact person, for your agency, with the Pennsylvania
16 Department of Public Welfare?

17 A No.

18 Q Same question, as to having contact with
19 the Governor's Office of Administration?

20 A No. I don't.

21 Q Have you ever received any training, or
22 explanation from the Civil Service Commission, about
23 how it evaluates and ranks internship candidates'
24 applications?

25 A No, I really don't get involved in how they

1 do that.

2 Q I don't know if I will need to make it part
3 of the record, it's actually an exhibit from prior
4 depositions in the same case, but this is a document
5 previously called Deposition Exhibit 1, in our civil
6 service depositions, and it's called Management
7 Directive from Governor's Office, I35.5 amended.

8 Let me just show this to you, and take a
9 moment with it, and let me know if you have ever had
10 occasion to read that document before, or use it in
11 your work?

12 A Yes, it's familiar to me. We get copies of
13 all management directives, and I have a booklet of
14 them, and refer to it often.

15 Q Does -- there is no trick question here, it
16 is not like I am sitting here with 15 management
17 directives.

18 Is that particular management directive one
19 that applies to your work, utilizing civil service
20 lists?

21 A Well, it says "Use of trainee classes,"
22 which there really aren't trainee classes any more.

23 So I don't know if this is a current, or if
24 you are referring to the internship program.

25 There used to be a caseworker trainee

1 classification, which no longer is in existence.

2 Q Right. That was kind of my next question,
3 is: Were you working here when there was a trainee
4 class category?

5 A I don't believe so, no.

6 Q That was very old; that went away a long
7 time ago?

8 A Correct. Yes, as far as I know.

9 Q Do you have any understanding, of how it
10 worked?

11 A No, I really don't.

12 Q Okay.

13 Now I am showing you what has in prior
14 depositions, in the same case, been Deposition
15 Exhibit 2. It's management directive, but it's
16 substantially newer, it is eight years newer, called
17 580.38.

18 And if you could take a moment with that.

19 Have you seen that management directive
20 before?

21 A I believe I have.

22 Q And is it pertinent to interns, as opposed
23 to just trainee classes?

24 A Yes, this looks like it's for all job
25 titles for interns.

1 We use the specific one that was for social
2 work interns.

3 Q So --

4 A For the county casework interns.

5 Q So to the best of your knowledge, there is
6 a specific management directive, that targets
7 caseworker interns?

8 A Yes. It is specific just to that one
9 caseworker intern program.

10 I think this covers a lot of different
11 intern programs.

12 Q Thank you.

13 A Uh-huh.

14 Q And so, in guiding your activities, one of
15 the documents you look to is the management directive
16 for interns in caseworker programs?

17 A Correct.

18 Q Whatever number?

19 A Or bulletins, or whatever.

20 Q Okay.

21 Now, as -- is bulletin a term of art, you
22 know, something specific, as contrasted with
23 directive? In other words, do you get directives, and
24 do you get other documents, called bulletins?

25 A Yes.

1 Q And what's the nature of the bulletins? Do
2 they address the same information, do they come out
3 more often, what are they all about?

4 A The bulletins give, from what I understand,
5 more specific information, that could be discussed in
6 a management directive.

7 It will give more specific procedures, you
8 know, explain it in maybe lay terms, as compared to
9 the way the management directives --

10 Q Which we will note, for the record, are in
11 governmentese?

12 A Very technical, yes.

13 Q Okay.

14 Do you recall consulting any management
15 directives, or bulletins, relative to trying to have
16 Mr. Dows removed from the civil service list?

17 A Yes.

18 Q And what guidance, if any, did you draw,
19 out of the documents that you looked at?

20 A That we, you know, had the right to request
21 a removal from a list, but of course, being the
22 language that it's in, would follow up with a phone
23 call to civil service, to make sure that we were
24 following the correct procedure.

25 Q Until the request was made, about removing

1 Mr. Dows from the civil service list, had you ever
2 been involved in trying to have anyone else removed
3 from the civil service list?

4 A Me, personally? No. I don't believe so.

5 Q And by personally, I mean in your
6 professional work that you are involved in?

7 A Right in my position, no.

8 Q And since trying to remove Mr. Dows, have
9 you been involved in trying to remove someone from the
10 civil service list?

11 A No.

12 MR. TAGGERT: Let's just take a deep
13 breath, and be off the record.

14 (Discussion off the record.)

15 BY MR. TAGGERT:

16 Q Some documents from the Civil Service
17 Commission refer to a category called a county
18 caseworker 3.

19 Are you familiar with that category?

20 A I know the category exists.

21 Q Do you have it at OCY?

22 A No, we do not.

23 Q Does OCY have available, onsite, the county
24 social caseworker intern materials, the application?

25 A Yes.

1 Q For people who may need it?

2 A Yes.

3 Q Are you approached very often by people
4 requesting that?

5 A For the interns?

6 Q For the interns.

7 A Not as often as I am for regular caseworker
8 positions. I get more phone calls about people
9 wondering how to take the civil service test for
10 permanent work.

11 Q And, your office, at OCY, is one place they
12 can go, and actually obtain the necessary civil
13 service application documents?

14 A Yes.

15 Q To take the caseworker test?

16 A Yes.

17 Q Do you have any knowledge as to whether or
18 not there are internship programs for other kinds of
19 agencies, in addition to Offices of Children and
20 Youth?

21 A Caseworker internship programs?

22 Q Yes.

23 A At other child welfare agencies?

24 Q Well, for other kinds of agencies, in
25 addition to Children and Youth agencies?

1 A That, I don't know.

2 Q Earlier today there was mention that mental
3 health agencies have internships. Have you
4 encountered that?

5 A I don't know.

6 Q And the same question, if have you run into
7 internships with area organizations for the aging?

8 A I don't know if they have them or not.

9 Q Okay.

10 Does OCY cooperate, or participant in any
11 other internship programs, except the internship
12 program to be a caseworker?

13 A Yeah, I believe that's the only formal
14 internship program that we have.

15 Q If you know, is OCY actually a signer of a
16 contract that governs its participation in the
17 internship program?

18 A I don't believe there is a formal signed
19 contract.

20 Are you talking about with the colleges, or
21 with --

22 Q Well, with the colleges, or with the
23 funding sources?

24 A No, I don't believe there is anything in
25 writing.

1 Q Is there any affirmative action aspect of
2 the internship program, you know, reaching out to
3 minority persons, or any other class of persons, to
4 encourage them to be social work interns?

5 A That we do, or that the colleges do?

6 Q First that OCY does?

7 A We do. I believe, there are, through the
8 training program, there is staff members that go out
9 and speak to high schools, I believe, even, they start
10 as, you know, early as trying to get high school kids
11 interested in social work, and there are people that
12 talk to local colleges, and we have, through our
13 training programs, staff that do go out and try to
14 recruit all types of people for permanent employment
15 or, you know, if they are going to high school kids,
16 going the route of social work in college.

17 Q Then the next step, which I had started to
18 bring up, are you aware of the colleges that you work
19 with, locally, having any affirmative action
20 activities relative to the internship programs?

21 A I don't know if they do or not.

22 Q And third, and last, are you aware of the
23 Civil Service Commission doing anything by way of
24 affirmative action to reach out to minority people, or
25 women, relative to these internship programs?

1 A I don't know that either.

2 Q Okay.

3 MR. TAGGERT: I am going to call a
4 unilateral two minute caucus, to see if there is
5 anything else.

6 (Recess taken.)

7 BY MR. TAGGERT:

8 Q Ma'am, among the three universities and
9 colleges we have mostly discussed today, Edinboro,
10 Gannon and Mercyhurst, what are the rough ratios of
11 where you get your interns?

12 A The majority of them are from Edinboro.

13 Q A true majority, over half than from the
14 other schools?

15 A Yes.

16 Q And how about the split between Gannon and
17 Mercyhurst?

18 A It's about the same, we normally would
19 maybe have one student from Gannon/Mercyhurst, as
20 compared to maybe three from Edinboro, at any one
21 time.

22 Q What does the starting caseworker 2 make?

23 A \$13.08 an hour, 25,506 annually.

24 Q That's impressive.

25 And the same question with the

1 caseworker 1's?

2 A In caseworker 1, I don't know off the top
3 of my head, because we don't --

4 Q Normally would be \$12 and something?

5 A Yes, probably 12.50, something like that,
6 an hour.

7 We normally hire from the caseworker 2
8 list.

9 Q Do you have occasions where you are
10 requesting, at the same time, the caseworker intern
11 list, and the caseworker competitive list?

12 A It may happen, I don't -- normally, it's
13 not at the same time.

14 Q How do you handle veterans preference
15 issues, on the trainee list -- I mean, on the intern
16 list?

17 A Well, they would have absolute preference,
18 if they are available for the position.

19 I don't recall us having a vet on the
20 intern list, but we would follow the same procedures
21 as a vet on any list.

22 Q In your experience, do more vets show up on
23 the competitive exam group, than on the intern list?

24 A Yes.

25 Q Now, we have briefly talked about a

1 severance program that developed in 2004. Do I have
2 that year right?

3 A I don't --

4 Q That was a program to encourage people to
5 leave, I guess, to save money?

6 A From the county, yeah.

7 Q And that included your agency, was one of
8 the agencies to which it applied?

9 A Correct.

10 Q Now, the testimony mentioned that various
11 administrators left, under that program.

12 A Right.

13 Q Did also some caseworkers leave under that
14 program?

15 A Yes, I believe there was maybe one or two.

16 Q And then, was there a third aspect, that
17 once some administrators left, some caseworkers moved
18 up into administrative positions?

19 A Well, there would have been a domino
20 effect, eventually probably supervisors would have
21 been put into administrator positions, caseworkers
22 would have been promoted into supervisor positions,
23 thus at the end of probably eight months or so later,
24 would have created caseworker vacancies.

25 Q It is just a time line that all of these

1 dominos have to fall, to go through?

2 A Right.

3 Q Do you know where Miss Liebel works, or
4 lives now?

5 A I don't know.

6 I know she lives in Erie. I don't know if
7 she is working or not.

8 Q The same question as to Miss Locke?

9 A Miss Locke also lives in Erie.

10 I do not believe she is working. She
11 retired.

12 Q And Mr. Concella?

13 A He also lives in Erie, and retired, and I
14 do not believe he is working anywhere.

15 MR. TAGGERT: Except for redirect, I am all
16 done.

17 Thank you.

18 THE WITNESS: Okay.

19 EXAMINATION

20 BY MS. LLOYD:

21 Q Just a couple of questions.

22 A Okay.

23 Q When you were talking about the
24 conversation that you think you had with
25 Steve Shartle about list removal procedures, I think

1 your testimony was Mr. Shartle told you you could
2 continue with your normal hiring process, while your
3 request was pending; is that correct?

4 A Yes.

5 Q Did he inform you that if Mr. Dows wasn't
6 removed from the list, this would create an issue for
7 you later, if you had hired other people off that
8 list?

9 A I believe, yes, he did caution us, that if
10 Mr. Dows' name was not removed from the list, we would
11 have to have an opening for him to go into.

12 I believe we knew we were going to have
13 openings, so didn't feel that would be a problem, we
14 would have a vacancy.

15 Q So that is indeed what happened?

16 A Yes, and we did have a vacancy, and he was
17 placed into that.

18 Q If you recall, the list that you were using
19 to hire other caseworkers at this time, was Mr. Dows'
20 name still physically on that civil service list, if
21 you remember?

22 A I believe his name was showing up on the
23 list at the beginning of the year, when we had asked
24 for his name to be removed. And we were told to
25 annotate the list, that it was pending a removal, and

1 we could pass the name over.

2 Q And there was some testimony from you,
3 about different ways that you can bring in legal
4 hires, and I believe you had said one would be a
5 transfer from another agency, another county OCY --

6 A Yes.

7 Q -- agency.

8 One other way would be interns that were
9 now ready for promotion from an intern to a
10 caseworker 2; is that correct?

11 A Correct.

12 Q Do you do any promotion from within, from a
13 caseworker 1 to a 2?

14 A Because we don't have many caseworker 1's,
15 no, we normally don't. Our only promotion within,
16 would be from intern to county caseworker 2.

17 Q And then another way would be from a civil
18 service merit list; is that correct?

19 A Correct.

20 Q Are there any other ways for you to bring
21 in legal hires, than the four that we just talked
22 about?

23 A Yeah, I believe we also had reinstatement
24 from resignations, people contacting us who had held
25 permanent civil service status as a county

1 caseworker 2, and were interested in working for our
2 agency.

3 Q And that does not require another civil
4 service test, or --

5 A No, because people keep their status
6 forever.

7 It requires for me to call county programs,
8 they will verify that this person did hold permanent
9 civil service status in good standing, and that they
10 would be eligible for us to reinstate.

11 Q Are there any other ways, than what we just
12 discussed, that you can think of?

13 A I believe those are the ones that come to
14 me.

15 Q That you have used?

16 A Yeah, that we have used.

17 Q So there are more than just the civil
18 service merit list, for ways that your OCY, or any
19 OCY, could hire employees?

20 A Correct.

21 Q Caseworkers?

22 A Yes.

23 We have also looked at the social worker
24 list, that's another list that we can hire from, of
25 people that already have their master's in social

1 work, which is a wonderful list, we would love to have
2 more people on, but --

3 Q So, outside of the caseworker 2 list, there
4 is another list that you said, a social work --

5 A There is a county social worker list, and
6 those are of people who already have their master's in
7 social work, and they are the only names that appear
8 on that list, and unfortunately, there is usually
9 only -- no names or one name on that list, but we have
10 pulled up that list.

11 What happens is, I normally would get an
12 inquiry from someone saying they have their master's
13 and, you know, are they -- they are interested in the
14 position, so I will tell them the procedure to take
15 the test, and get on that way, and when their name
16 appears on the list, we will send for that list.

17 Q Are there any other lists that you might
18 ask for, besides the county social worker list, or a
19 caseworker 2 list, as you said, you really don't do
20 1's or 3's in Erie?

21 A Right.

22 That's the list that we use.

23 MS. LLOYD: I think that's all I have. But
24 I am sure I generated some questions from
25 Mr. Taggert.

1 EXAMINATION

2 BY MR. TAGGERT:

3 Q If you know, has the trainee program, the
4 intern program for caseworkers, ever been reviewed and
5 validated, or critiqued by any outside agency, except
6 the Civil Service Commission?

7 A Not that I am aware of.

8 Q And specifically, I am asking that question
9 as to the U.S. Equal Employment Opportunity
10 Commission?

11 A I don't know.

12 Q The same with the Pennsylvania Human
13 Relations Commission?

14 A I am not aware.

15 Q And the same with the U.S. Department of
16 Labor?

17 A I don't know.

18 Q Are you aware, including anything that has
19 to do with Mr. Dows, of any administrative, or court
20 action against the county, exploring the validity of
21 the internship program?

22 A No, I am not aware of anything.

23 Q And the same question, in your professional
24 duties have you heard of any litigation,
25 administrative or courts, regarding the internship

1 program, anywhere in the State of Pennsylvania?

2 A I am not aware.

3 MR. TAGGERT: Well, we are done for today.

4 THE WITNESS: Okay. Very good.

5 MR. McLAUGHLIN: Patrice, as I indicated
6 before, you have the right to read the transcript
7 or, if you choose not to, you can waive
8 signature, and as I advised to the prior
9 deponent, my advice would be to waive signature,
10 but you are free to do what you want.

11 THE WITNESS: I will waive signature.

12 MR. McLAUGHLIN: And we will order copies
13 of the transcripts.

14 - - -

15 (Thereupon, at 2:26 o'clock p.m., the
16 deposition was concluded, and signature was
17 waived.)

18 - - -

19

20

21

22

23

24

25

1 CERTIFICATE

2 COMMONWEALTH OF PENNSYLVANIA,)
3) SS:
4 COUNTY OF ALLEGHENY.)

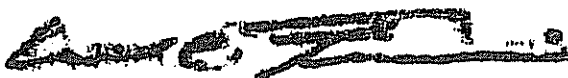
5 I, Eugene C. Forcier, do hereby certify that
6 before me, a Stenographer-Commissioner in and for the
7 Commonwealth aforesaid, personally appeared
8 PATRICE BERCHTOLD, who then was by me first duly
9 cautioned and sworn to testify the truth, the whole
truth, and nothing but the truth in the taking of her
oral deposition in the cause aforesaid; that the
testimony then given by her as above set forth was by
me reduced to stenotypy in the presence of said
witness, and afterwards transcribed by means of
computer-aided transcription.

10 I do further certify that this deposition was
11 taken at the time and place in the foregoing caption
specified, and was completed without adjournment.

12 I do further certify that I am not a relative,
13 counsel or attorney of either party, or otherwise
interested in the event of this action.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 and affixed my seal of office at Pittsburgh,
16 Pennsylvania, on this 6th day of March,
2005.

17



18 Eugene C. Forcier
19 Stenographer-Commissioner

20

21

22

23

24

25
